



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,605	07/29/2003	Lars Oppermann	P-7608	8678
24209 7590 03/14/2008 GUNNISON MCKAY & HODGSON, LLP 1900 GARDEN ROAD SUITE 220 MONTEREY, CA 93940				
EXAMINER KIANERSI MITRA				
ART UNIT		PAPER NUMBER		
2145				
MAIL DATE		DELIVERY MODE		
03/14/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/630,605

**Applicant(s)**

OPPERMANN, LARS

**Examiner**

MITRA KIANERSI

**Art Unit**

2145

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01302008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7, 9-23 and 25-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-23 and 25-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07292003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date 06102005
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### ***Response to Arguments***

Applicant's arguments filed 04/17/2007 have been fully considered but they are not persuasive.

Paragraph [A]: applicant on page 9 argues that Straahof shows in Fig. 14 that multiple clients are used and therefore teaches away from the invention y using the use of multiple clients. Examiners reply: Straahof in Col 10, lines 38-50 discloses that the executable to be utilized to emulate a single user session, the script load testing program is the program that operates on itself and it represents an executable load testing program for script driver to emulate one or typically many users. As indicated by Straahof, a single user or a single client session as well as many users or client sessions can be involved in the process. Because the arguments with respect to the allowableness of independent claims were found unpersuasive, these same arguments are not persuasive with respect to the other dependent claims.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7, 9-23 and 25-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Straathof et al. (EPO 784276 A1).

1. Claims 1: a method for generating an operational processing load including: (load testing software application and generating a script from the captured application, col 2, lines 5-10)
  - accessing, at a client, test input data for controlling using the client at least one application on a server (The executable to be utilized to emulate a single user session, the script load testing program is the program that operates on the itself represents an executable load testing program for script driver to emulate one or typically many users. Col 10, lines 38-50)
  - establishing, at said client, a plurality of communication sessions involving the at least one application; (generating a script from the captured application calls, col 2, lines 5-25)
  - producing, at said client, test input using said test input data for each of the plurality of communication sessions. (producing scripts for load testing, col 2, lines 5-25)
  - transmitting, by said client to said server via said plurality of communication sessions, said test input for each of the plurality of communication sessions. (when the call for transmission over the network to the server, script is utilized to emulate, for example, a hundred. The network transport layer receives data from users, all one hundred users will not attempt to add the server sent to the client, the same database record, Col 8, lines 40-54)
2. Claims 2, 16, and 18: the method further comprising:
  - recording user input operations via a graphical user interface at the client, wherein the user input operations constitute the test input data for controlling the at least one application at a server. (recording timing information of the captured application calls, col 5, lines 5-25)
3. Claims 3 and 19: the method where said recording user input operations further comprises:
  - recording time intervals between individual user input operations. (recording timing information of the captured application calls, col 5, lines 5-25)

4. Claims 4 and 20: the method further comprising: storing the test input as the test input data at the client prior to said accessing; and wherein said producing and transmitting comprise; and wherein said producing and transmitting (the database application then verifies and stores the logon information, col 7, lines 1-5) comprise;  
-replaying the test input in each of the communication sessions to simulate user input. (the generated script is able to reproduce the user session including the timing of the calls, Fig. 14 and col 12, lines 15-23)
5. Claims 5 and 20: the method wherein each of the plurality of communication sessions involves a different instance of a graphical user interface at the client. (the capture agent may be utilized with a GUI tester so that the GUI tester operates the client application, col 14, lines 16-28)
6. Claims 6 and 22: the method wherein each of the plurality of communication sessions includes a thread in a process involving the at least one application. (the capture agent installs hooks to capture user interactions and database functions at step 456, col 12, lines 5-10)
7. Claims 7 and 23: the method wherein each of the plurality of communication sessions involves an instance of the at least one application at the server. (Fig. 10, shows a process the capture agent performs to generate a script from the capture calls. At step 502, the user interface and application calls are captured. Col 12, lines 1-5)
8. Claims 9 and 25: the method wherein said establishing said plurality of communication sessions further comprises starting at least two communication sessions with a time offset. (application processing time is used to refer to the time starting when a user interface call is received from the user and ending when the client application responds locally by redrawing a window on the display, col 12, lines 55-60)
9. Claims 10 and 26: the method wherein said establishing said plurality of communication sessions further comprises establishing each of the plurality of communication sessions based on statistical user behavior data. (The log files

Art Unit: 2145

are ASCII files on the server so that third party statistical and graphics programs may be utilized to create custom reports, col 17, lines 5-12)

10. Claims 11 and 27: the method wherein the producing the test input further comprises producing the test input based on statistical user behavior data. (The log files are ASCII files on the server so that third party statistical and graphics programs may be utilized to create custom reports, col 17, lines 5-12)

11. Claims 12 and 28: the method, wherein the producing the test input further comprises:

- modifying time intervals in said time intervals between individual user input operations. (the term "think time" is used to refer to the time starting when the computer is able to accept input from a user and ending when the user enters commands or data and provides many option, col 13, lines 5-25)

Claims 13 and 29: the method wherein said modifying includes compressing at least one time interval in said time intervals between individual user input operations. the script may and interpolates the response times and theoretical be user edited or compiled to produce an executable number of users that the system may support. Col 2, lines 40-50)

Claims 14 and 30: the method, wherein said modifying includes expanding at least one time interval in said time intervals between individual user input operations. the script may and interpolates the response times and theoretical be user edited or compiled to produce an executable number of users that the system may support. Col 2, lines 40-50

Claim 15: A computer readable medium, in which a computer-readable program is embodied, wherein execution of the computer-readable program results in a method comprising:

- accessing, at a client, test input data for controlling, using the client, at least one application on a server establishing, at said client, a plurality of communication sessions involving the at least one application (The executable to be utilized to emulate a single user session, the script load testing program is the program that

Art Unit: 2145

operates on the itself represents an executable load testing program for script driver to emulate one or typically many users. Col 10, lines 38-50)

-producing, at said client, test input using said test input data, for each of the plurality of communication sessions; (producing scripts for load testing, col 2, lines 5-25)

-transmitting, by said client to said server via said plurality of communication sessions, said test input for each of the plurality of communication sessions.

(when the call for transmission over the network to the server, script is utilized to emulate, for example, a hundred. The network transport layer receives data from users, all one hundred users will not attempt to add the server sent to the client, the same database record, Col 8, lines 40-54)

Claim 17: A device comprising: a client unit for generating an operational processing load at a server, said client unit including:

-processing means adapted to establish a plurality of communication sessions involving at least one application on said server; (generating a script from the captured application calls, col 2, lines 5-25) and

-test input means for accessing test input data for controlling the at least one application and for producing test input, using the test input data, for each of the plurality of communication sessions; (The executable to be utilized to emulate a single user session, the script load testing program is the program that operates on the itself represents an executable load testing program for script driver to emulate one or typically many users. Col 10, lines 38-50)

-means for transmitting the test input in each communication session to the server. (when the call for transmission over the network to the server, script is utilized to emulate, for example, a hundred. The network transport layer receives data from users, all one hundred users will not attempt to add the server sent to the client, the same database record, Col 8, lines 40-54)

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MITRA KIANERSI whose telephone number is (571)272-3915. The examiner can normally be reached on 8:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cordone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Mitra Kianersi  
Feb/28/2008

/Jason D Cardone/  
Supervisory Patent Examiner, Art Unit 2145